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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,164	10/17/2001	Ronald Schoop	01179	3945
23338 7590 11/16/2007 DENNISON, SCHULTZ & MACDONALD 1727 KING STREET SUITE 105 ALEXANDRIA, VA 22314			EXAMINER TINKLER, MURIEL S	
			ART UNIT 3691	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/978,164

Applicant(s)

SCHOOP, RONALD

Examiner

Muriel Tinkler

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on 17 September 2007.

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 13 and 14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 13 and 14 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date 1-3-2002.

4) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date. \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This application has been reviewed. Claims 13 and 14 are pending. The rejection(s) are as stated below.

#### ***Response to Arguments***

1. Applicant's arguments filed September 17, 2007 have been fully considered but they are not persuasive. The Applicant argues that Matsumoto and Gutman do not disclose the use of cycle times of the CPU. The Applicant has not disclosed a description of what these cycle time accomplish. For instance, page 6 of the specification used operating time and cycle time interchangeably. It is unclear exactly what the cycle time actually does and how it relates to the operating time or operations performed by the CPU.
2. For the purposes of the current examination of this application, the Examiner will assume that cycle time of the CPU and operating time are synonymous.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:  

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 13 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 13 and 14 discloses detecting cycle times and measuring cycle times respectively. It is unclear exactly what the cycle time actually does and how it relates to the operating time or operations performed by the CPU. For instance, page 6 of the specification used operating time and cycle time interchangeably. For the purposes of the current examination of this application, the Examiner will assume that cycle time of the CPU and operating time are synonymous.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 13 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsumoto et al. (US 6,230,971), hereafter referred to as Matsumoto

8. Regarding claim 13, Matsumoto discloses: "the automation device is equipped with a module for registering the operating time and/or the operations performed by the automation device in that the module is coupled to an evaluation unit for calculating a user fee accrued by the user for use of the automation device"; in claim 3, "A key control apparatus according to claim 1, further comprising, a time measuring unit which measures a time" and an, "electronic money processor to calculate a charge in accordance with the measured time"; "the evaluating unit is integrated with the module into a component, in that the component is equipped with a memory unit used to store an amount of operating credit and/or a reading unit for a payment card, and in that the amount of operating credit is automatically deducted in correspondence with the amount of operating time and/or the operations performed by the automation device"; in claim 9, "an IC card reader/writer which reads and writes the information of the IC card; an electronic money processor which processes the electronic money of the information stored in the IC card"; in the Summary of the Invention, particularly in column 3 (lines 1-4), "a unit for measuring a time, a unit for calculating an amount of money to be charged on the basis of the information concerning the time as measured"; "the evaluation unit is equipped with a calculating unit such as a calculation table, in which the operating times and/or operations are assigned corresponding debit amounts"; and, in paragraph 49 of the detailed description, "a first charge calculating unit 38 calculates the amount of money to be charged for the use of the IC-card-operated electronic locker system."

9. Regarding claim 14, Matsumoto discloses: measuring operating time during execution of an action using a special debit amount (assigning different or special amounts) for transactions in column 23 (lines 12-50); allocating special credit amounts in accordance with executed actions in column 24 (lines 16-27); in claim 1, "electronic money processor to calculate a charge in accordance with the measured time"; "the registered service data are transmitted via a data transmission medium to a central point, or are evaluated on-site in the automation device, wherein the operating time and/or the operations performed are used to calculate user fees, preferably using a calculation table, wherein a predetermined amount of credit, stored in the automation device or in the central point, or loaded using a payment card, is debited in keeping with the operating time and/or operations performed by the automation device (12, 14)"; in claim 15, "an identification number storing unit which stores an identification number of the information stored in the IC card...said electronic money processor subtracts the electronic money information of the IC card"; "a safety unit, which halts operation of the automation device as soon as the stored credit has been used up"; and, in claim 17, "a transaction is suspended at a time when a monetary deficiency is indicated by the electronic money information of the inserted IC card."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Muriel Tinkler whose telephone number is (571)272-

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7976. The examiner can normally be reached on Monday through Friday from 7:30 AM until 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT  
November 5, 2007



HANI M. KAZIMI  
PRIMARY EXAMINER